

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE ROAD CARRIERS
LOCAL 707 WELFARE FUND,

Plaintiff,

- against -

HARVEY N. GOLDBERG,

Defendants.

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MAUSKOPF, United States District Judge.

ORDER ADOPTING
REPORT & RECOMMENDATION
08-CV-0884 (RRM)(MDG)

On August 15, 2009, this Court entered default judgment against the Defendant in the above captioned matter [docket entry 7]. The matter was subsequently referred to Magistrate Judge Marilyn D. Go for a report and recommendation (“R&R”) concerning damages [*id.*]. On September 25, 2009, the Magistrate Judge issued an R&R [docket entry 11] recommending that Plaintiff be awarded the following relief: \$23,218.00 for losses to the Plaintiff fund; \$4,244.04 for pre-judgment interest through September 30, 2009 and at a daily rate of \$2.54 until the date of judgment; \$1,812.50 in attorneys’ fees; and \$350.00 in costs, for a total judgment of \$29,624.54; and no award of liquidated damages.

The R&R – reciting the requirements for filing objections within ten days of service, pursuant to Fed. R. Civ. P. 72(b), and the consequences for failure to timely object – was served upon the Defendant by Federal Express on October 1, 2009. To date, neither party has filed objections to the R&R.

If clear notice has been given of the consequences of failure to object, as here, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the

consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.""). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R in its entirety.

CONCLUSION

The Court directs the Clerk to enter default judgment for Plaintiff as follows: \$23,218.00 for losses to the Plaintiff fund; \$4,244.04 for pre-judgment interest through September 30, 2009 and at a daily rate of \$2.54 until the date of judgment; \$1,812.50 in attorneys' fees; and \$350.00 in costs, for a total judgment of \$29,624.54. Upon entry of judgment, the Clerk is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
October 27, 2009

s/RRM

ROSLYNN R. MAUSKOPF
United States District Judge